



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR AN)
ORDER AUTHORIZING CAMBRIAN COMMUNI-)
CATIONS LLC TO PROVIDE AND RESELL LOCAL)
EXCHANGE TELECOMMUNICATIONS SER-)
VICES)

ORDER OF APPROVAL

DOCKET NO. TE00020130

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated February 29, 2000, Cambrian Communications LLC (Petitioner or Cambrian) filed a petition with the Board of Public Utilities (Board) requesting authority to provide and resell local exchange telecommunications services in the State of New Jersey. Petition at 1. Additional information was provided by letters dated March 13, 2000, May 11, 2000, May 23, 2000, and June 13, 2000. Petition has asserted that certain marketing and financial information contained in these documents is highly proprietary and confidential and wishes to have it protected from public disclosure. See the cover letter to the petition dated February 29, 2000, the May 23, 2000 letter at 2, and the June 13, 2000 letter at 2.

According to the petition, Petitioner was incorporated under the laws of the State of Delaware on November 16, 1999. Petition at 2, Exhibit A. Petitioner's principle offices are located at 12801 Fair Lakes Parkway, Lower Level, Fairfax, Va. 22033. May 11, 2000 questionnaire response at 2.

Petitioner submitted copies of its Certificate of Formation, Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. Petition at 2, Exhibits A and B. According to the petition, Cambrian intends to provide voice and data communications service to both business and residential customers in unserved and under-served markets, principally in the Mid-Atlantic states, beginning in the fourth quarter, 2000. Id. at 1. Petitioner advised that Cambrian has filed applications to provide local exchange telecommunications services in New Jersey, Pennsylvania and Maryland. Petitioner also intends to file additional applications this year in Virginia and Delaware. Petition at 2; May 11, 2000 letter at 4. Cambrian has not been denied authority to provide telecommunications services, in any State. Cambrian also has no pending civil, criminal or administrative actions against it. May 11, 2000 letter.

Petitioner is currently negotiating an interconnection resale agreement with Bell Atlantic-New Jersey, Inc. (BA-NJ). May 11, 2000 letter at 4.

In its petition and May 11, 2000 questionnaire response, Petitioner advised that it initially plans to offer high bandwidth services primarily to other carriers and to some business through those carriers, eventually planning to offer a full array of services, to both business and residence customers. Petition at 2; May 11, 2000 letter at 5.

Petitioner requested waivers of rules requiring keeping books and records in New Jersey and the maintenance of these records according to the Uniform System of Accounts (USOA). Petitioner advised that it wishes to maintain its books and records at its principle offices at 12801 Fair Lakes Parkway, Lower Level, Fairfax, VA. 22033 and to keep those books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petitioner maintains that keeping its books and records in New Jersey and according to USOA would be unduly burdensome. Id. at 2. Petitioner has agreed to provide to the Board, in New Jersey, any books and records desired and reimburse the Board for any expenses accrued in viewing them. June 13, 2000 letter at 1.

Petitioner asserted that approval of its petition will further the public interest by providing availability of both voice and data services to both business and residential customers in unserved and underserved markets. Petition at 1.

With regard to its managerial qualifications, Cambrian's list of officers and directors indicates that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 2, Exhibit C.

Petitioner has submitted pro forma balance sheets and income statements for 2000 and 2001 for the entirety of Cambrian in support of its ability to provide the services for which they have petitioned. See petition, Exhibit E. Cambrian requested confidential treatment of its Exhibit E, pro forma financials, its Indefensible Right of Use (IRU) agreement submitted by letter dated May 23, 2000, and certain limited staffing information provided by letter dated June 13, 2000, claiming that this information is highly sensitive and should be treated by the Board as confidential.

Finally, by letter dated July 5, 2000, the New Jersey Division of the Ratepayer Advocate advised that it is satisfied that Cambrian's application for authority is consistent with the public interest, convenience and necessity, and, accordingly, recommended approval by the Board.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L., 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to a demonstration of financial, technical and managerial integrity.

In considering this application, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Cambrian's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange telecommunications services in New Jersey subject to approval of its tariff. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board. Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemption from maintaining its books and records in New Jersey and under the USOA.

With regard to Petitioner's request for confidential treatment of financial and staffing information submitted in Exhibit E to the petition, and letters of May 23, 2000 and June 13, 2000, the Board FINDS that the Petitioner has shown good cause pursuant to N.J.A.C. 1:1-14.1 that this information merits protection from disclosure in order to prevent competitive harm to the Petitioner. Therefore, the Board DIRECTS that the financial information contained in its petition and in responses to staff questions be kept under seal.

DATED: 9/12/00

BOARD OF PUBLIC UTILITIES
BY:

(signed)
HERBERT H. TATE
PRESIDENT

(signed)
CARMEN J. ARMENTI
COMMISSIONER

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
BOARD SECRETARY